

SENATE BILL 3631

By Bryson

AN ACT to amend Tennessee Code Annotated, Title 13, Chapter 7; Title 38, Chapter 6; Title 50, Chapter 3; Title 50, Chapter 6; Title 50, Chapter 9 and Title 56, relative to workers' compensation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 50-6-238(d), is amended by deleting the subsection in its entirety and by substituting instead the following:

(d)

(1) The party against whom a specialist has issued an order pursuant to this section shall have the right to submit a "Request for Reconsideration" to the administrator of the division of workers' compensation within ten (10) calendar days of receipt of the specialist's order. If no "Request for Reconsideration" is filed, the party against whom a specialist has issued an order shall comply with the order within fifteen (15) calendar days of the receipt of the order.

(2) If a "Request for Reconsideration" is submitted to the administrator of the division of the workers' compensation, the party against whom the order was issued is not required to comply with the specialist's order as outlined in subdivision (d)(1) above. After receipt of a "Request for Reconsideration", the administrator shall conduct a hearing and all affected parties shall be given notice of the date and time of the hearing. The hearing shall be informal and shall be conducted within twenty-one (21) calendar days of the date of receipt of a "Request for Reconsideration" by the administrator. After the hearing, the administrator shall issue a written order that either affirms, modifies or reverses the order by the specialist. If the administrator affirms or modifies the order, the

party against whom the order is issued shall comply with the order within ten (10) calendar days of the receipt of the administrator's order.

(3) If an insurer, self-insured employer or self-insured pool fails to comply with an order issued by a specialist within fifteen (15) calendar days of receipt of the order or fails to comply with an order issued by the administrator within ten (10) calendar days of the receipt of the order, whichever is applicable, the commissioner of labor and workforce development shall assess a penalty in the amount of ten thousand dollars (\$10,000). Notification of the assessed penalty shall be sent to the insurer, self-insured employer or self-insured pool by facsimile, electronic mail or certified mail. Such insurer, self-insured employer or self-insured pool shall have five (5) calendar days from the receipt of the notification of penalty to respond and prove that it has complied with the specialist's order. If satisfactory proof of compliance is not received by the twenty-first calendar day after receipt of the notification of penalty, additional penalties in the amount of one thousand dollars (\$1,000) per day shall begin to accrue on the twenty-first day. The insurer, self-insured employer or self-insured pool shall have the right to appeal the penalty assessed by the commissioner of labor and workforce development for failure to comply with an order issued by a specialist or by the administrator of the division of workers' compensation pursuant to the uniform administrative procedures act, compiled in title 4, chapter 5.

(4) In addition to any other penalty provided by law, if an insurer, self-insured employer or self-insured pool fails to comply with an order issued by a specialist or fails to comply with an order issued by the administrator within thirty (30) days of receipt of the order, the commissioner of labor and workforce

development shall notify the commissioner of commerce and insurance of such failure to comply. The commissioner of commerce and insurance may consider the continued failure to comply with the order of the specialist or administrator as a violation of title 56, chapter 8, which subjects the insurer to the penalty provisions of §56-8-109, and may consider any failure by a self-insured employer or self-insured pool to comply with the order of the specialist sufficient grounds to revoke the employer's status as a self-insured employer or self-insured pool pursuant to §50-6-405.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.